

HomeWise Single Family Weatherization Contractor Contract

Section 1: Contract Overview

Issuing Agency - This document is issued for the HomeWise Program (hereinafter referred to as the “Program”) and entered into upon execution by the City between the City of Seattle, Washington (hereinafter referred to as the “City”), acting by and through its Office of Housing (hereinafter referred to as “OH”) and the Contractor (hereinafter referred to as “Contractor.”)

Contract Management: The Office of Housing shall have primary responsibility for the City under the Contract and shall oversee and approve all work to be performed, coordinate communications, and review and approve all invoices.

Purpose – This document (hereinafter referred to as the “Master Contract”) provides an overview of the Program, along with bid procedures, and rules and regulations for the Contractors who have been accepted onto the HomeWise Single-Family Weatherization Contractor Roster (hereinafter referred to as the “Roster.”) Contractors who are on the Roster are eligible to bid on single-family weatherization jobs for the Program.

Project Contracts are issued on a per-job basis through the bidding and award processes described herein. All contracted work is subject to the terms and conditions listed below. The Contractor agrees to the following requirements regarding continued qualification for the Roster. This document must be completed, signed, and returned by the Contractor.

Section 2: Program Overview

A. History & Purpose

The HomeWise Weatherization Program has existed for over twenty-five years, providing free weatherization services to low-income households within the City of Seattle and in some cases the broader Seattle City Light Service territory. Clients served include both homeowners and renters who meet income eligibility requirements. This Master Contract is for Contractors who provide weatherization services to single-family homes (4 units or under); multi-family projects are contracted through a different process.

By providing weatherization services, the Program aims to:

- Reduce energy consumption and energy bills by installing weatherization measures and related repairs which improve the energy efficiency of the home; and
- Enhance client health and safety by providing adequate ventilation, safely functioning combustion appliances, proper zonal pressures, and smoke and CO detectors.

B. Funding

HomeWise pays for 100% of the weatherization services provided to single-family homes. Funding to pay for weatherization services comes from a variety of sources, including Seattle City Light, Puget Sound Energy and the Washington State Department of Commerce (Commerce). Commerce funding includes federal funds from the Department of Energy, the Department of Health and Human Services, Bonneville Power Association and state funds

from the Match Maker program. Occasionally HomeWise receives funding from other sources as well.

C. Program Administration

Commerce administers the Washington State Low Income Weatherization Program, using federal and state sources to fund twenty-six weatherization agencies across the state, which includes the HomeWise program located at the Seattle Office of Housing. Commerce also issues the Weatherization Manual, which provides guidance on all aspects of the program, including policies, procedures and technical specifications.

D. Terms & Definitions

Auditor: HomeWise staff person who performs the initial energy audit, creates the work order and oversees the Job and Contractor during construction.

Bid: Bids are generated through the following process: Contractors submit a Unit Price Worksheet after being accepted into the program on a probationary basis for the most common weatherization measures. Those unit prices are entered into the HomeWise Database (HWDB). A HomeWise energy auditor completes an energy audit of the home and creates a scope of work for that home based on the audit and a cost-effective analysis of potential energy saving measures. That scope of work is also entered into the HWDB. Using the HWDB, the Program generates a list of bids by contractor, based on the current unit price list and scope of work. The program determines the winning bidder by selecting the contractor that has the lowest bid and meets the other non-price criteria described later in the document.

Bidder: Contractors on the Roster who have submitted Unit Price Worksheets. See above "Bid" for definition of bid.

Certificate of Debarment: A statement that must be signed annually by each contractor stating that neither they nor any of the sub-contractors used on HomeWise jobs have been suspended or debarred.

Completion: Completion occurs when all physical work has been completed and the Contractor has furnished all documentation required by the Contract or required by law, necessary to allow the City to certify the Contract as complete. This includes Intents and Affidavits approved by the Washington State Department of Labor and Industry, permit information, and other information required for the invoice package.

Contract Award Price: The amount of the lowest eligible bid.

Final Inspection: Inspection performed by HomeWise staff person of the Job after Contractor has completed work and submitted a complete invoice package.

HomeWise Database (HWDB): Program database used to input work orders, and generate bids.

Invoice Package: All documents that contractors are required to submit at the end of a project.

Job: A job constitutes the work at a specific single-family address.

Notice to Proceed: Document issued to Contractor by Program authorizing the Contractor to begin work.

Project Contract: This is the contract signed by both the contractor and the City for work to be performed at a specific job. The Project Contract is for a Job at only one address. It includes Job location, Work Order, Contract Award Price and a Completion Date.

Single-Family Homes: Single-family homes are considered permanent structures containing between one and four dwelling units.

Subcontractor: Any contractor hired by the Contractor to perform a portion of the work included in the Project Contract or subsequent Change Orders.

Unit Price Worksheet: List submitted by Contractor before the Contractor begins its first probationary Job. List includes unit prices for the most common weatherization measures.

Work Order: A document produced for each Job that consists of the measures, units, and accompanying notes provided for the Job. The work order is included with the Project Contract.

E. Specifications

The Contractor shall be solely responsible for all methods, techniques, safety precautions, and procedures and for coordinating all portions of the work according to the following specifications and/or procedures:

1. All applicable state and local building codes. The Contractor is responsible for obtaining all required permits and other required approvals.
2. Department of Commerce Weatherization Specifications, effective April 2012 and updated yearly. All specifications are available at <http://www.commerce.wa.gov/Programs/services/weatherization/Pages/WeatherizationTechnicalDocuments.aspx>.
3. Explanatory notes and specifications included as reference along with the Unit Price Worksheet.

4. The Work Order for the specific Job, which contains specific measures and quantities, along with notes from Program staff.
5. Other verbal or written instruction from Program staff during the course of the Job.
6. The Contractor will furnish all of the materials, supplies, tools, equipment, labor, and other services necessary to perform the work.

If the Contractor performs any work contrary to such laws, specifications, ordinances, rules, regulations, and procedures, the Contractor shall assume full responsibility and shall bear all costs attributable thereto.

If during the course of the job the work provided does not comply with the laws, specifications, ordinances, rules, regulations, and procedures, the Contractor shall take such corrective action as the Program may require.

All rules in the Weatherization Manual issued by Commerce apply to contractors participating in the weatherization program, whether or not explicitly addressed in this contract. Any applicable updates apply and take precedence over what is included in this contract.

F. Overview of Process

HomeWise staff conduct weatherization audits on each household served and create a work order based on that audit. The execution of the work in the work order is then contracted out to Contractors on the Roster through bidding and award procedures described herein. Contractors complete the work specified according to Program specifications. Program field staff inspect the work and approve it for payment.

G. Work Order Creation

HomeWise energy auditors, who are all BPI-certified, complete an energy audit of the home. Based on the audit, they create a Work Order for the home that includes one or more measures to improve the energy efficiency of the home. The typical job includes one or more of these energy savings measures:

- air-sealing the building shell to reduce air infiltration
- insulating attics, walls, underfloors, heating ducts and water pipes
- sealing the air handling system (supply and return ducts and boots)
- making minor repairs to protect the weatherization measures installed

In addition, HomeWise Work Orders often include items to address health and safety issues, including bringing the home up to ASHRAE 62.2. standards. These include:

- combustion safety analysis including Daily CAZ testing
- installing bathroom and kitchen fans in compliance with ASHRAE 62.2
- installing whole house ventilation systems
- installing programmable thermostats, carbon monoxide detectors and smoke detectors

The work requires technical diagnostic testing including blower door testing, combustion safety analysis, and zonal pressure testing.

In addition to the items listed, Contractors are required to arrange for specialists, such as plumbers and electricians, to perform specialty tasks. Contractors are required to provide knob and tube inspections by licensed electricians when this item is specified by the Program.

Contractors are **not** responsible for furnace safety inspections and servicing or for major repairs. Furnace work is contracted through a separate furnace contract and major repairs are beyond the scope of the single-family weatherization program

In order to be included in the Work Order, energy saving measures must meet cost-effectiveness and other funder criteria. Cost-effectiveness is determined by the Priority List set by Commerce or running the total package of measures through an energy software modeling program, in which case both the measures and the total package must have a savings to investment ratio of at least one. Health and safety measures must be done for a documented health and safety need. Repair measures can only be done if they enable or protect the installation of energy saving measures.

Section 3: Instruction to Bidders

A. Criteria

In order to be eligible to bid on HomeWise single-family weatherization jobs, the Bidder must be qualified on the Roster.

B. Unit Price Worksheet

All contractors are required to submit a unit price worksheet for the most common weatherization measures before beginning their first probationary job. The Program uses the Unit Price Worksheet provided by Contractors to calculate bids for each contractor, using the process described in Section 4 below. The Program will open the bid price list at least two times annually. The Program will incorporate any new price lists into the HomeWise Database (HWDB) and the new prices will be used for any new bids starting immediately. The Program will use the latest price list on file for each Contractor. Contractors may retain existing pricing as long as they wish and do not need to submit anything as long as their pricing remains unchanged

C. Per-Job Basis

All work is bid, awarded, and contracted on a per-Job basis. Each Job consists of a single family home, and includes measures identified by Program field staff through their complete weatherization audit on that home.

D. Other Requirements

1. The Contractor agrees to perform the Work in compliance with this document, for the prices stated in the Project Contract.

2. The Contractor agrees that they have not either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free, competitive bidding in the preparation and submission of a bid to the City for consideration in the award of a contract.
3. Neither the Contractor nor any Subcontractor the Contractor utilizes for the Job have been suspended or debarred, per Section 7.C of this Contract.

Section 4: Bid Procedure & Conditions

A. Bid Generation Process

Bids for single-family weatherization projects are generated through the following process:

1. After being accepted into the Program on a probationary basis, contractors submit a Unit Price Worksheet for the most common weatherization measures. Those unit prices are entered into the HWDB.
2. A HomeWise Auditor completes an energy audit of the home and creates a Work Order for that home based on the audit and a cost-effective analysis of potential energy saving measures. That Work Order is also entered into the HWDB.
3. Using the HWDB, the Program generates a list of Bids by contractor, based on the each Contractor's current Unit Price Worksheets and the Work Order.
4. The Program determines the winning Bidder by selecting the contractor that has the lowest Bid and meets the other non-price criteria described in Section 4.B below. The lowest eligible Bid selected is the Contract Award Price.

B. Other Eligibility Criteria

In order to be eligible to be awarded a job, a Bidder must meet the following non-price criteria:

1. Work Capacity: The Contractor must be able to complete the work within the time specified. Under normal circumstances, the Contractor will have 45 calendar days from the time they receive the Project Contract to Complete the work so that it is ready for final inspection and approval by the Program.
2. Tier System: Contractors are assigned to a Tier, which determines the number of jobs they may have outstanding at any one time. Tier I maximum is ten jobs, Tier II maximum is 5 jobs and Probationary Status is one job. If the lowest bidder has the maximum amount of jobs allowed by its assigned Tier, the Program may award the job to the next lowest Bidder.

In times of high production, the Program may occasionally opt to use a Tier 1 Plus category. The Program reserves the right to choose which contractors qualify for Tier I plus; only Contractors already in Tier 1 will be eligible for Tier 1 Plus. Contractors in Tier 1 Plus may be able to have more than 10 outstanding jobs at a time, if and only if all other Contractors are at maximum capacity, per their Tier Level.

C. Amount of Work:

By entering into this agreement, the Contractor is not guaranteed any specific amount of work.

Section 5: Project Contract and Notice to Proceed

The following is the process used to notify contractors of a Job award, and the process used to notify contractors that work can begin. Each Job awarded has a separate contract, (hereinafter referred to as the "Project Contract") entered into upon execution by the City and the Contractor.

A. Project Contract

1. The Contractor with the lowest eligible bid is notified by being sent, via email, the Project Contract for the job. The Project Contract includes Job location, Work Order, Contract Award Price and Completion Date.
2. The Contractor who receives the Project Contract has seven (7) days from receipt of the Project Contract to accept or refuse the Job. Acceptance is accomplished by signing and returning the Project Contract.
3. The Contractor may contact the Program with questions about the job.
 - a. The Contractor may visually inspect the job location by doing a "drive by" of the site.
 - b. The Contractor may request a full inspection/walk through of the Job location. In this case, the Program will notify the homeowner and the Contractor can then arrange the site visit directly with the homeowner.
4. When a Contractor receives a Project Contract, it has the right to decline the job. The contractor must notify HomeWise within seven (7) days if it declines the job, although earlier notification is appreciated by the Program and results in better service to our clients. If a Contractor declines a project, the Program will send a Project Contract to the next lowest eligible bidder. Non-response by the Contractor within the timeframe allowed is considered equivalent to refusal of the job.
5. When the Project Contract is returned to OH, it is then routed to the OH Director for signature. A fully signed copy of the Project Contract is returned to the Contractor, along with the Notice to Proceed, as described in the next section.

B. Notice to Proceed

Once the Contractor accepts the job by signing and returning the Project Contract, the Program issues a Notice to Proceed. No work is to be performed prior to issuance of Notice to Proceed by the City.

Section 6: Execution of Work & Payment

The work is initiated by the Notice to Proceed, discussed in Section 4 above. The following section covers requirements and procedures for completing the work and payment.

A. Deadlines for completion

Work Proposals for each job contain a deadline for Completion. By signing and returning the Work Proposal to OH, the Contractor indicates its ability to complete that job within the time allotted. Performance record of timely completion is a crucial factor in evaluating a Contractor's performance.

B. Lead Safe Weatherization

To protect the health and safety of weatherization clients, their neighbors, and weatherization practitioners, Contractors shall utilize Lead Safe Weatherization practices on homes built prior to 1978, unless it has been determined by the Program that there is no lead present. Contractors need to be aware of and follow requirements of EPA and OSHA when working with homes built prior to 1978. See Section 7.H. below on lead training requirements.

C. Customer service expectations

Customer service is a priority of the Program. Contractors are expected to maintain positive customer relationships at all times:

1. All Contractors must insure that the Contractor's employees, subcontractors, and subcontractor's employees shall treat each customer with dignity and respect.
2. Recognizing that customers may not be knowledgeable about weatherization work, the Contractor shall ensure customers are knowledgeable about the work that will be or has been done to their home.
3. Contractors must communicate with customers regarding construction strategy and work schedule.
4. Contractors must maintain a work environment that minimizes inconvenience to the household.
5. Contractors must educate customers in how the proper use and care of the products and materials installed can help them save energy and money, the ways in which customers can maintain and extend the life of any installed products, and educate customers in the use and care of any customer adjustable products.
6. Contractors must provide insulation certificates and product warranties and documentation to the household.

D. Change Order Approval and Documentation:

All work must be authorized in advance by the Program. The Program will provide the Contractor with Work Orders that detail measures to be installed and individual unit costs. Any changes to the scope of work detailed in the Work Order must be authorized in advance by the Program. The Program shall not be responsible for any unauthorized work, nor for payment of such. Due to the nature of the work, there may be cases where changes to the scope of work are necessary during the course of a job. Typical causes of such change orders include items that could not have been assessed accurately by the Contractor or Program staff until walls were opened up, access areas added or wiring exposed or items that the client refuses part way through the job.

These items are handled through change orders. Change orders must be authorized by the Program in advance. Authorization can be initiated verbally (e.g. over the phone) but must ultimately be in writing and signed off by Contractor and Program staff.

If a proposed change order is critical to the successful and complete weatherization of the home (for example the homeowner doesn't want roof venting or major electrical problems are discovered), the contractor must stop all work on the project until the Program is consulted.

HomeWise provides a change order form for Contractors to use. The Contractor must enter the descriptions and quantities of all items to be added and deleted, and calculate the effect of the changes on the original contract price. The change order form must be submitted at the same time as the invoice for payment.

E. In-Progress Inspections

During the course of the job, the Program may do an "in-progress" inspection of the work to ensure it is being carried out according to specifications. The Program will arrange such inspections with the Contractor, and normally the Contractor's presence is required.

F. Liquidated Damages

The Program incurs costs for repeat Final Inspections. Therefore, the Contractor may be assessed liquidated damages in the following circumstances:

- **\$100** for each failed Final Inspection. If the work fails again at re-inspection, the Program reserves the right to call on another Contractor to correct the defects, and not pay the original Contractor for the measures that did not pass inspection.

No liquidated damages for failed Final Inspection will release the Contractor, in any degree, from further obligations and liabilities to complete the entire Contract.

G. Invoice Package

In order to start the process for payment, Contractors must submit a complete invoice package. The invoice package should be submitted after the physical work has been completed and the Job is ready for Final Inspection. A complete invoice package includes but may not be limited to:

1. Invoice presented in line-item format and referencing each item in the Work Order and bid price sheet letter and number. The invoice should also reference the Job address for easy identification. The invoice amount must match the original Work Order; see below for process for change orders.
2. Change order form (if applicable), presented in line-item format referencing each change order item with the bid price sheet letter and number.
3. If sub-contractors were employed for routine work, such as installation of fans, a sub-contractor invoice is not required. If sub-contractors were employed for non-routine work, such as electrical repairs, an invoice is required. In those cases, sub-contractor mark-ups are limited to 20%.
4. All required documentation relevant to the project, including but not limited to:
 - a. Daily in-progress combustion safety testing forms
 - b. Photos of air sealing
 - c. Photos of lead safe work practices
 - d. Permits
 - e. Certificate of insulation
 - f. Diagnostic test reports
 - g. Mechanical Ventilation Worksheet (ASHRAE 62.2. form)
 - h. Certificate of inspection and completion
 - i. Warranty and release of liens form
 - j. L&I approved Intent for the address in the Project Contract. The Intent should include all Sub-contractors used on the job. (An L&I Approved Affidavit for the address in the Project Contract is also required for payment, but does not need to be submitted until after the project has passed final inspection).

H. Final Inspection

1. The Program will schedule a final inspection only after receiving a complete invoice package. A Final Inspection will not be scheduled if the invoice package is missing any required documents. During Final Inspection, Program staff will inspect all completed work to determine compliance with all specifications, policies and procedures and overall quality of work.
2. Contractors are required to self-inspect their work upon completion, including blower door and other diagnostic tests to ensure target levels are reached. Contractor final inspections should occur before the Program conducts its Final Inspection.
3. All work must meet Program requirements and pass the Final Inspection in order to be approved for payment. The Contractor may be required to attend inspections. The Contractor must correct any items which have failed inspection before the Job is eligible for payment. If all work passes inspection, Program staff approves the Job for payment.

4. If work does not pass Final Inspection, Program staff specifies additional work to be done to bring the work up to specifications. The Contractor has five (5) business days to make the necessary modifications and arrange for re- inspection.

I. Payment

The City shall pay the Contractor for the work performed under each Project Contract as follows:

- c. The Job must pass Final Inspection before payment is issued
- d. An L&I approved Affidavit for the address in the Project Contract must be submitted before payment is issued.
- e. The City shall pay all Contractor invoices within fifteen (15) days of receiving the L&I approved Affidavit.
- f. The Contractor shall provide and bear the expense of all equipment, work and labor of any sort whatsoever that may be required for the transfer of materials and for constructing and completing the work.
- g. Payment for work performed shall not be evidence of acceptable performance or an admission by the City that any work has been satisfactorily completed.
- h. If during the course of the Contract, the work performed does not meet the requirements set forth in the Contract, the Contractor shall correct or modify the work to comply with the requirements of the Contract at the Contractor's sole expense, and without delaying the time of completion. The City shall have the right to withhold payment for such work until it meets the requirements of the Contract documents.

J. Contractor Performance

HomeWise places contractors into three Tiers: Probationary Status, Tier I and Tier II. In Probationary Status, contractors can only have one outstanding job at a time and a Contractor must pass two probationary jobs before being moved into Tier I or Tier II. Contractors in Tier I can have ten outstanding jobs at a time, Contractors in Tier II can have five outstanding jobs at a time. (See Section 4.B.2 above on occasional use of Tier I Plus category).

New contractors enter the program on Probationary Status. In Probationary Status, a Contractor receives two probationary jobs, although they can only have one job out at a time. New Contractors must successfully complete the two probationary jobs before they are moved into Tier II. New Contractors will be moved into Tier I Status after the Program has had sufficient time to assess the Contractor's ability to perform successfully at the higher Tier. Contractors may opt to remain in a lower Tier without any consequence.

The Program reserves the right to demote a Contractor to a lower Tier, including moving a Contractor from Tier I to Tier II or moving a contractor from Tier I or Tier II to Probationary Status. The Program may reduce a Contractor's Tier if the Contractor demonstrates

performance problems, including but not limited to poor customer service, consistent late completions, subpar work as reflected in a high rate of failed inspections. If a Contractor is placed on Probationary Status, they will be subject to the Probationary Status rules in the above paragraph.

K. Dispute Resolution

Contractors are expected to follow the Program's Dispute Resolution Policy, found in the HomeWise Policies and Procedures Manual. A copy of the policy is available upon request.

L. Warranty

All work (labor and materials) shall be warranted for a period of one (1) year. Contractors shall also provide customers with any manufacturer's warranties for all products installed by the Contractor.

M. Material Safety Data Sheets - Contractors shall maintain Material Safety Data Sheets (MSDS) for all products used in the performance of the work in their office(s) and on all job sites. Contractors shall provide copies of the MSDS to the Program upon request.

Section 7: General Terms and Conditions

A. Prevailing Wage - All weatherization work performed through the Program is subject to the residential prevailing wage requirements of Chapter 39.12 RCW (as amended). NO WORKER, LABORER OR MECHANIC EMPLOYED IN THE PERFORMANCE OF ANY PART OF THE Contract SHALL BE PAID LESS THAN THE PREVAILING RATE OF WAGE as determined by the Industrial Statistician of the Department of Labor and Industries for the State of Washington.

For each Job, Contractors are required to file documents with the Washington State Department of Labor and Industries (L&I) regarding the labor categories and wages that will be paid for the work done under that Project Contract. Contractors must submit to the Program an L&I approved Statement of Intent to Pay Prevailing Wages and an Affidavit of Wages Paid for each Job. The Program will not release payment for completed projects until these documents are received.

It is the Contractor's responsibility to obtain and file the Intent to Pay Prevailing Wages and the Affidavit of Wages Paid for each Job. The Contractor shall be responsible for all filing fees. Following the final acceptance of services rendered, the Contractor shall submit an "Affidavit of Wages Paid" to the Program.

It is the Contractor's responsibility to ensure that any sub-contractor it utilizes for a Job has also filed an L&I approved Intent and Affidavit. See Section 7.D below for more detail on responsibilities regarding sub-contractors.

Contractors must follow all aspects of the prevailing wage law, including submitting the Intent before work begins and posting a copy of the intent on the job site.

B. License , Bonding and Registration Requirements

The contractor must:

1. Be licensed and bonded to do business as general contractors in the State of Washington.
2. Have a current State unified business identifier number and a City of Seattle Business license.
3. Provide a W-9
4. At the time of bid submittal, have a certificate of registration in compliance with Chapter 18.27 RCW;
5. Have industrial insurance coverage for the Bidders employees working in Washington as required in Title 51 RCW; an employment security department number as required in Title 50 RCW; and a state excise tax registration number as required in Title 82 RCW.

C. Suspension and Debarment (local, state and federal)

The Contractor must:

1. Comply with the requirements regarding subcontracting, and the purchase of supplies or materials from firms that are not disqualified or otherwise debarred from doing business with the City under the provisions of SMC Ch. 20.42 or SMC Ch. 20.70.
2. Not be disqualified from bidding under RCW 39.06.010 or 39.12.065 or subcontract with any subcontractor disqualified from bidding under RCW 39.06.010 or 39.12.065.
3. Not be listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Non-procurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

D. Pass-thru to subcontractors

In the Program, Contractors may need to hire a Sub-Contractor to complete certain portions of the work order. For example, a contractor may need to hire an electrician to complete the installation of the fan. Contractors are responsible for monitoring sub-contractor compliance with certain Program requirements, as described below.

1. Contractors must certify annually that the Sub-Contractors they utilize:

- a. Are not suspended or debarred by the City of Seattle, the State of Washington or the Federal government. (See Section 7.C above for more information). This can be done through a signed certificate of non-debarment.
 - b. Have current City of Seattle and Washington State Business License
 - c. Have a current electrical license, if required by Chapter 19.28 RCW
 - d. Have current payment and performance bonds.
 - e. Maintain the following minimum insurance levels required for specialty contractors: General Liability of \$1,000,000 and Automobile Insurance of \$1,000,000.
- 2. Sub-contractors are subject to the same prevailing wage requirements as contractors. Sub-contractors must submit an L&I approved Intent and Affidavit to Contractors; Contractors must receive an Intent and Affidavit before paying the sub-contractor.
 - 3. Contractors are required to have a signed contract with each of their sub-contractors. That contract must be provided to the Program upon request.
 - 4. The Program maintains the right to audit sub-contractor files to determine if minimum requirements are being met.
 - 5. Additionally, a Subcontractor of any tier that hires other Subcontractors must verify responsibility criteria for each of its subcontractors. This verification requirement, as well as the responsibility criteria, must be included in all subcontracts of every tier.

E. Insurance

The insurance shall provide the minimum coverages and limits of liability set forth below. Providing coverage for these stated minimum limits of liability shall not relieve the Contractor, any subcontractor of any tier or any of their respective insurers from liability for claims in excess of such limits. If Work is subcontracted, applicable minimum coverages and limits of liability may be evidenced by any subcontractor provided that such insurance fully meets the applicable requirements set forth herein.

- 1. Commercial General Liability (CGL) Insurance
 - a. CGL shall include coverage for:
 - Premises/Operations
 - Products/Completed Operations
 - Personal/Advertising Injury
 - Contractual
 - Independent Contractors
 - Stop Gap (unless insured as Employers Liability under Part B. of a Workers Compensation Insurance Policy)

- Per project aggregate per ISO CG 25 03 (Aggregate Limits of Insurance per Project) or Equivalent
 - Blasting (if explosives are used in the performance of the Work)
- b. Such insurance must provide a minimum limit of liability of \$1,000,000 each Occurrence Combined Single Limit Bodily Injury and Property Damage (CSL) except \$1,000,000 each Offense Personal/Advertising Injury and \$1,000,000 each Accident/Disease - Policy Limit/ Disease - each Employee Stop Gap or Employers Liability.
2. Automobile Liability Insurance for owned, non-owned, hired, and leased vehicles, as applicable, with a minimum limit of liability of \$1,000,000 CSL. If pollutants are to be transported, MCS 90 and CA 99 48 endorsements are required on the Automobile Liability insurance policy unless in-transit pollution risk is covered under a Pollution Liability insurance policy.
 3. The Contractor shall comply with Workers' Compensation coverage as required by Title 51 RCW (Industrial Insurance).
 4. The Contractor shall provide a Pollution Liability policy for claims, including investigation, defense, or settlement costs and expenses that involve bodily injury and property damage (including natural resources damages and loss of use of tangible property that has not been physically injured) covering:
 - a. Pollution conditions caused or made worse by the Contractor, including clean-up costs for a newly caused condition or a historical condition that is made worse.
 - b. The vicarious liability of subcontractors of any tier.

Such Pollution Liability insurance shall provide a minimum limit of liability of \$500,000 each claim with a minimum aggregate of \$500,000 dedicated to the Project.
 5. The Contractor shall (1) not begin Work until certification of insurance as required in section 1-07.18(4) has been delivered to and approved by the City, and (2) keep required insurance in force at all times during the term of the Contract. The term "insurance" herein shall include but not be limited to self-insurance, alternative risk transfer techniques, capital market solutions or any other form of risk financing.
 6. Each insurer must either be (1) authorized to do business in the state of Washington and maintain A.M. Best's ratings of A-: VII or higher, or (2) procured as surplus lines under the provisions of chapter 48.15 RCW ("Unauthorized Insurers"), except as may otherwise be approved by the Program.
 7. The City of Seattle shall be included as an additional insured for primary and non-contributory basis as respects insurance coverages specified in sections 1-07.18(1)A

(CGL insurance) and 1-07.18(1)B (Automobile Liability insurance). As respects CGL insurance, and Contractor's Pollution Liability Insurance (if required), such additional insured status shall (1) be evidenced by an ISO endorsement form CG 20 10 or equivalent endorsement or blanket additional insured language, (2) be primary and non-contributory as respects the Owner's insurance, and (3) contain a "cross liability" provision. ISO endorsement form CG 20 12 or equivalent endorsement or blanket additional insured language limiting additional insured status to governmental permitting shall not satisfy the requirements of this paragraph.

8. Written notice of cancellation must be actually delivered or mailed to the City not less than thirty (30) days prior to the effective date of any cancellation except for cancellation for nonpayment of premium, which notice shall be not less than ten (10) days prior to such date, unless a longer period of written notice is required under the provisions of Revised Code of Washington (RCW) 48.18.290 ("Cancellation by insurer."). Notice under this paragraph shall be sent by mail to the City of Seattle, Office of Housing, P.O. Box 94725, Seattle, WA 98124.
9. Failure on the part of the Contractor to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five (5) business days' notice to the Contractor to correct the breach, may immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the Contracting Agency on demand, or at the sole discretion of the Contracting Agency, offset against funds due the Contractor from the Contracting Agency.
10. Any self-insured retention (S.I.R.) in excess of \$25,000 that is not "fronted" by an insurer must be disclosed and is subject to the City's approval. Upon request by the City, the Contractor shall (1) furnish financial information that the City may reasonably require to assess the Contractor's risk bearing capacity, and (2) provide a written statement that the Contractor will defend and indemnify the City against any claim within the Contractor's S.I.R. at least to the same extent that coverage would be afforded to the City under the relevant insurance policy(ies) meeting the requirements stated herein. The cost of any payments for defense and indemnity falling within the S.I.R. shall be the responsibility of the Contractor.
11. The Contractor and/or any subcontractor of any tier shall comply with all of a railroad's risk management requirements (including purchasing Railroad Protective Liability Insurance) before performing construction services work adjacent to or upon a railway's right of way and/or property.
12. All costs for insurance shall be incidental to and included in the unit or lump sum prices of the contract and no additional payment will be made.
13. Contractor shall contractually require that each subcontractor of every tier maintain at a minimum the insurance coverages specified in sections 1-07.18(1)A (CGL insurance) and

1-07.18(1)B (Automobile Liability insurance) and include the City of Seattle as an additional insured for primary and non-contributory limits of liability. As respects CGL insurance, and Contractor's Pollution Liability Insurance (if required), such additional insured status shall (1) be evidenced by an ISO endorsement form CG 20 10 or equivalent endorsement or blanket additional insured language, (2) be primary and non-contributory as respects the Owner's insurance, and (3) contain a "cross liability" provision. ISO endorsement form CG 20 12 or equivalent endorsement or blanket additional insured language limiting additional insured status to governmental permitting shall not satisfy the requirements of this paragraph. Upon request of the City, the Contractor shall cause evidence of such insurance to be provided to the City as specified in section 1.07.18(5).

14. The limits of liability specified herein are minimum limits only. Such minimum limits of liability requirements shall not be construed to limit the liability of the Contractor, that of any subcontractor of any tier or of any of their respective insurers. Any provision in any Contractor or subcontractor insurance policy that limits available limits of liability to those specified in a written agreement or contract shall not apply and all insurance policies, with the exception of Professional Liability and Workers Compensation, shall include the City of Seattle as an additional insured for primary and non-contributory limits of liability for the full valid and collectible limits of liability maintained by the Contractor or subcontractor, whether such limits are primary, excess, contingent or otherwise. This provision shall apply regardless of whether limits maintained by the Contractor are greater than those required by this Contract, and regardless of whether the certification of insurance provided by a subcontractor of any tier pursuant to section 1-07.18(3) specifies lower minimum limits than those specified for or maintained by the Contractor.
15. The Contractor shall deliver to the City certification of insurance meeting the requirements set forth herein when the Contractor delivers the signed Contract for the work. The certification of insurance must include the following:
 - a. An ACORD certificate or equivalent form fully disclosing all coverages and limits of liability maintained.
 - b. A copy of the additional insured endorsement or blanket additional insured language to the Commercial General Liability and (if required) Pollution Liability insurance documenting that the City of Seattle is an additional insured for primary and non-contributory limits of liability and (if required) Products and Completed Operations Additional Insured; A statement of additional insured status on an ACORD or other form of certificate of insurance will not satisfy this requirement.
 - c. Any other policy language or endorsements that documents compliance with the requirements herein.

- d. Should any insurance policy neither be issued nor delivered to the named insured Contractor at the time it delivers the signed Contract for the work, the Contractor shall deliver and maintain on file with the City binders of insurance evidencing compliance with the requirements herein. As soon as practicable after delivery of the policy(ies), the Contractor shall deliver the certification specified in paragraphs 2., 3. and 4. above.
- e. At any time upon the City's request, the Contractor shall forward to the City a true and certified copy of any insurance policy(s).

F. Indemnification

The Contractor shall defend, indemnify and save harmless the City and its officers, employees and agents from every claim, risk, loss, damage, demand, suit, judgment and attorney's fee, and any other kind of expense on account of injury to or death of any and all persons, or on account of property damage of any kind, whether tangible or intangible, or loss of use resulting therefrom arising out of or in any manner connected with the Work performed under this Contract, or caused or occasioned by reason of the presence of the property, or an officer, employee or agent of either the Contractor or a Subcontractor upon or in proximity to the property of the City, at any time before the Completion Date.

If the claim, suit, or action for injuries, death, or damage is caused by or results from the concurrent negligence of (a) the Contractor or its officer, agent, or employee and (b) the City or its officer, agent or employee, these indemnity provisions shall be valid and enforceable only to the extent of the Contractor's negligence.

The Contractor shall also indemnify, defend, and save harmless the State of Washington, the Washington State Department of Commerce and its employees, and any county, city or district and the officers and employees of said county, city or district connected with the Work within the limits of which county, city or district the Work is being performed hereunder all in the same manner and to the same extent as provided above for the protection of the City and the City's officers, employees and agents provided that no retention of money due the Contractor will be made by the City except as provided in RCW 60.28, pending disposition of suits or claims for damages brought against the county, city or district.

G. Contractor responsibility

The Contractor is responsible for any and all personal injury, property damage or other harm it causes while working on a Job.

H. Training and Certifications

To qualify for and to remain on the Roster, the Contractor shall maintain the following certifications:

1. The following lead safe trainings are required for each crew member who works on HomeWise jobs:

- a. Lead Safe Weatherization & Lead Safe Work Practices
 - b. WA State Lead-Safe Renovations, Repairs, & Painting
 - c. Workers who are in their first nine months of employment are exempt from the worker certification requirement, but they must be working with a certified lead safe weatherization worker any time they are performing lead safe weatherization work
2. Building Analyst Professional Certification from the Building Performance Institute (BPI) for at least one key member of the Contractor's staff. Contractors on the Roster whose BPI certification requirement lapses due to personnel changes (e.g. BPI-certified staff member leaves the firm) will have six (6) months to come back into compliance with this requirement by certifying another staff member. However, the contractor will not receive any new jobs during the time period they do not have a BPI certified person on staff.
3. Beginning December 31, 2014, crew members who perform daily in-progress combustion safety training must have one of the following three certifications: BPI Analyst, Combustion Safety Testing certificate of training, or Daily In-progress Combustion Safety Testing certificate of training.

I. Compliance with Laws

The Contractor shall comply with all federal, state and local laws and regulations applicable to the work to be completed under each Contract, including but not limited to those listed below. Any violation of the provisions of this section shall be considered a violation of a material provision of the Contract and shall be grounds for rescission, termination, or suspension of the Contract by the City, in whole or in part, and may result in ineligibility for further work for the City.

1. Equal Employment Opportunity. The Contractor, by executing each Contract, is affirming that the Contractor complies with all applicable federal, state, and local non-discrimination laws, including but not limited to Chapter 14.04 SMC, Chapter 14.10 SMC, Chapter 20.42 SMC and Chapter 20.45 SMC. All contracts shall contain a provision requiring compliance with E.O. 11 246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity Department of Labor."
2. Copeland "Anti-Kickback" Act (18 V.S.c. 874 and 40 V.S.c. 276c). All contracts and subgrants in excess of \$2,000 for construction or repair awarded by recipients and sub recipients shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal awarding agency.

3. Contract Work Hours and Safety Standards Act (40 V.S.C 327-333). Where applicable, all contracts awarded by recipients in excess of \$2,000 for construction contracts and in excess of \$2,500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 V.S.C. 327-333). as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 1/2 times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
4. Rights to Inventions Made Under a Contract or Agreement. Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 40.1, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
5. Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended. Contractors and subgrants of amounts in excess of \$100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.) Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
6. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying in non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.
7. The Federal Water Pollution Control Act of 1972, as amended, Including the Clean Water Act of 1977, Public Law 92-212 (33 U.S.C. SECTION 1251 et seq.) The Contractor must

assure compliance with the Water Pollution Control Act, as amended, which provides for the restoration of chemical, physical and biological integrity of the nation's water.

8. Women and Minority Business Enterprises Non-Discrimination Requirements. The Contractor shall comply with the provisions of RCW 35.22.650 as follows:

“Contractor agrees that the contractor shall actively solicit the employment of minority group members. Contractor further agrees that the contractor shall actively solicit bids for the subcontracting of goods or services from qualified minority businesses. Contractor shall furnish evidence of the contractor’s compliance with these requirements of minority employment and solicitation. Contractor further agrees to consider the grant of subcontracts to said minority bidders on the basis of substantially equal proposals in the light most favorable to said minority businesses. The Contractor shall be required to submit evidence of compliance with this section as part of the bid.”

J. Records and Reporting Requirements

1. Contractors shall retain all records and accounts pertaining to each Project Contract for a period of six (6) years after final payment. This includes but is not limited to books, documents, papers, contractor records and time and expense records. The City, the Washington State Department of Commerce, Federal Funders, and Comptroller General shall be granted access to Weatherization Vendor’s books, documents, papers, and contractor records upon request.
2. The contractor will comply with all federal requirements and regulations regarding reporting.
3. Any records, reports, information, data, or other documents or materials provided to or prepared or assembled by the CONTRACTOR under each Contract will be kept confidential by the Contractor and shall not be made available to any individual or organization by the Contractor without prior written approval of the City or by court order.
4. The Contractor acknowledges that any materials received by the City, or used by the City, are considered to be public records that must be disclosed in accordance with Washington’s Public Disclosure Act, Chapter 42.46 RCW.

K. Termination of Project Contract:

The CITY may terminate the Project Contract for a specific job for default and take possession of the premises and all materials thereon and finish the work by whatever methods it may choose, by giving ten (10) days written notice to the Contractor, upon the occurrence of any one or more of the events hereafter specified:

1. The Contractor makes a general assignment for the benefit of its creditors, or a receiver is appointed as a result of the insolvency of the Contract.
2. The Contractor refuses or fails to complete the work required herein.

3. The Contractor fails to make prompt payment to subcontractors for material or labor.
4. The Contractor fails to comply with any applicable federal, state, or local law or regulation.
5. The Contractor fails to comply with instructions of the Program, or breaches a material provision of the Project Contract or Master Contract.

In the event the Contract for a job is terminated by the City for default, the Contractor shall not be entitled to receive any further amounts under the Contract for work that has not been accepted as of the date of termination. The Contractor shall bear all costs and liabilities incurred by the City and caused by, or relating to, the Contractor's breach, including, but not limited to, increased costs in completing the work.

The City may terminate the Project Contract in whole or in part if the City determines that termination is in the best interests of the City, for non-appropriation of funds, or for the City's convenience.

L. Termination of Master Contract and Removal From Roster

The Program may terminate a Master Contract with a Contractor and remove a Contractor from the Roster at its discretion, should Program needs, procedures, funding, or requirements change. Further, the Program may terminate a Master Contract and remove a Contractor from the Roster should the Contractor at any time be out of compliance with the requirements of the Program, the City, or any other applicable guidelines governing the work. Such reasons for removal include, but are not limited to, the following:

1. Lack of current insurance, license, registration, or other certifications Deficient performance in terms of quality of work, timeliness of completion, or customer service
2. Any failure to meet financial obligations to Contractor's employees, subcontractors, suppliers, the homeowner, the City or to stay current on local, state and federal taxes.

The City may terminate the Master Contract in whole or in part if the City determines that termination is in the best interests of the City, for non-appropriation of funds, or for the City's convenience.

If the Master Contract has been terminated and the Contractor has been removed from the Roster, the Contractor may re-apply after waiting a period of twelve (12) months from the date of removal. The Contractor will need to submit an application and complete the usual application process for new contractors, including the probationary period.

M. Claims

Any claim against the City for damages, expenses, costs or extras arising out of the performance of the Contract must be made in writing to the City within thirty (30) days after the discovery of such damage, expense, cost, or extra, and in no event later than the time of making application to the City for final payment. The Contractor, upon making application for final payment, shall be deemed to have waived its right to claim for any other damages for which a claim has not been made, unless such application for final payment includes notice of additional claim and fully describes such claim.

N. Other General Provisions

1. **Governing Law; Forum.** The Agreement will be governed by the laws of Washington. The CONTRACTOR irrevocably consents to the exclusive personal jurisdiction and venue of the Superior Court of King County, Washington, with respect to any dispute arising out of or in connection with the Agreement, and agrees not to commence or prosecute any action or proceeding arising out of or in connection with the Agreement other than in the aforementioned court.
2. **Severability.** If any provision of the Agreement is held to be invalid or unenforceable for any reason, the remaining provisions will continue in full force without being impaired or invalidated in any way. The CITY and the CONTRACTOR agree to replace any invalid or unenforceable provision with a valid and enforceable provision that most closely approximates the intent and effect of the invalid or unenforceable provision.
3. **Non-waiver.** Any failure by the CITY to enforce strict performance of any provision of the Agreement will not constitute a waiver of the CITY'S right to subsequently enforce such provision or any other provision of the Agreement.
4. **No Assignment.** Neither the Agreement nor any of the rights or obligations of the CONTRACTOR arising under the Agreement may be assigned without the CITY'S prior written consent. Subject to the foregoing, the Agreement will be binding upon, enforceable by, and inure to the benefit of, the parties and their successors and assigns.
5. **Notices.** All notices and other communications under the Agreement must be in writing, and must be given by registered or certified mail, postage prepaid, or delivered by hand to the party to whom the communication is to be given, at its address set forth in the Quote Form.

O. Capacity

The Program may, at its discretion, require the Contractor to obtain a Payment and Performance Bond for a particular job or body of work. The Payment and Performance Bond requirement is waived for each project unless otherwise specified by the City.

- P. Access to Computer and E-mail** – In the interests of efficiency and expediency, the Program may issue bid and award notifications and other critical communications via e-mail. The Contractor shall maintain the capability to receive and respond in a timely manner. Contractor price lists shall be maintained via electronic spreadsheet. The Contractor shall have the capability to manage, update, and submit their price list in electronic spreadsheet format.

Q. Contract documents and modification

This document, together with the Attachments and/or addenda, along with each Contract Award, represents the entire and integrated Contract between the parties hereto and supersedes all prior negotiations, representations, or agreements, either written or oral. This contract may be amended only by written instrument properly signed by both parties hereto.

In witness whereof, the parties have executed this Agreement and it shall become effective upon execution by the CITY.

CONTRACTOR:

CITY OF SEATTLE:

By:

By:

Printed Name

Printer Name

Title

Title

Signature

Signature

Date

Date